

IN THE UNITED STATES DISTRICT CIRCUIT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA) CR. NO. 05-00027 JMS
)
 vs.)
) AFFIDAVIT OF CRAIG T. KIMSEL
 ERIC K. HO,)
)
 Defendant.)
)
 _____)
 AFFIDAVIT OF CRAIG T. KIMSEL

STATE OF HAWAII)
) SS.
 CITY AND COUNTY OF HONOLULU)

CRAIG T. KIMSEL, being duly sworn upon oath, deposes and says:

1. Affiant is an attorney licensed to practice law before the United States District Court for the District of Hawaii, and before all State Courts in the State of Hawaii, and formerly represented the Defendant, ERIC K. HO, in the above-entitled case;
2. That Affiant has reviewed Defendant HO'S "Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody" filed September 12, 2007;
3. On page 8 of the above-referenced motion, captioned as "Ground Three" Defendant HO relates "I told my lawyer to file for my rights to Appeal, he said he would then he didn't do it.";
4. That HO'S statement related as "Ground Three" is false, in particular, Defendant HO never requested or indicated in any way that Defendant HO wanted or desired that Affiant appeal the sentence imposed upon Defendant HO, and Affiant never related to Defendant

EXHIBIT 9


HO that Affiant would file such an appeal;

5. If Defendant HO had requested Affiant to file an appeal of any matter following his sentencing before the United States District Court for the District of Hawaii on March 3, 2006, Affiant would have done so.


FURTHER AFFIANT SAYETH NOT.

DATED: Honolulu, Hawaii, October 10, 2007.

Subscribed to and Sworn before me
this 10th day of October, 2007.


Notary Public, State of Hawaii

My commission expires: 10/10/07 TM
Tina Ann E. Mandac August 3, 2010


CRAIG T. KIMSEL

